

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

TERESA VANWORMER,

Plaintiff,

-against-

DISCOVER FINANCIAL SERVICES INC.,

Defendant.

COMPLAINT

1:14-CV-690[DNH/CFH]

NOW COMES Plaintiff, Teresa Vanwormer ("Plaintiff"), by and through her attorneys, Krohn & Moss, Ltd., for her Complaint against Defendant, Discover Financial Services Inc. ("Defendant"), alleges as follows:

Nature of the Action

1. This action is brought by Plaintiff pursuant to the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* ("TCPA").

Parties

2. Plaintiff is a natural person residing in Central Bridge, Schoharie, New York.

3. Defendant is a business entity with an office located at 2500 Lake Cook Rd., Riverwoods, Illinois 60015.

4. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers.

Jurisdiction and Venue

5. Jurisdiction of this court arises pursuant to 28 U.S.C. § 1331.

6. Defendant conducts business in the State of New York thereby establishing personal jurisdiction.

7. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

Factual Allegations

8. Prior to the filing of this action, Plaintiff obtained a credit card from Defendant which was used for various goods and services.

9. Defendant started placing telephone calls to Plaintiff on her cellular telephone at telephone number (518) 231-24xx.

10. Defendant has been assigned multiple telephone numbers from its telephone provider(s) which it utilizes to place telephone calls to Plaintiff including, but not limited to, 800-767-1143.

11. All of Defendant's telephone calls to Plaintiff were placed using an automatic telephone dialing system or other equipment capable of storing and producing telephone numbers at random or sequential periods to be dialed.

12. In or around February, 2014, Plaintiff spoke with one of Defendant's employees and instructed Defendant to stop calling her cellular telephone.

13. Plaintiff revoked any actual or implied perceived authority to call her cellular telephone.

14. Despite Plaintiff's instructions, Defendant continued to call Plaintiff on her cellular telephone.

15. Defendant's continued calls to Plaintiff's cellular telephone after she revoked authority include, but are not limited to:

- 1) 2/13/2014 10:35 AM
- 2) 2/13/2014 5:23 PM
- 3) 2/14/2014 8:05 AM
- 4) 2/14/2014 10:10 AM
- 5) 2/14/2014 5:05 PM
- 6) 2/16/2014 9:02 AM
- 7) 2/16/2014 11:34 AM
- 8) 2/17/2014 8:29 AM
- 9) 2/17/2014 10:38 AM
- 10) 2/17/2014 5:09 PM
- 11) 2/18/2014 5:03 PM
- 12) 2/18/2014 7:25 PM
- 13) 2/19/2014 8:27 AM
- 14) 2/19/2014 5:12 PM
- 15) 2/20/2014 8:19 AM
- 16) 2/20/2014 10:23 AM
- 17) 2/20/2014 11:38 AM

16. Plaintiff is annoyed and feels harassed by Defendant's repeated calls to her cellular telephone after she instructed Defendant to stop.

CLAIM FOR RELIEF

17. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

18. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff prays that judgment be entered against Defendant for the following:

(1) Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);

(2) Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

(3) All court costs, witness fees and other fees incurred;

(4) Awarding such other and further relief as may be just, proper and equitable.

Dated: June 9, 2014

KROHN & MOSS, LTD.

By: /s/ Adam T. Hill

Adam T. Hill

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